

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NOS. 85-78-E/86-188-E AND 94-425-E - ORDER NO. 96-66
JANUARY 25, 1996

IN RE: Application of Duke Power Company for)
Approval of Settlement Agreement Between)
Duke Power Company and Piedmont Municipal)
Power Agency and North Carolina Municipal)
Power Agency Number 1.)

ORDER
APPROVING
AGREEMENT

On November 27, 1995, Duke Power Company ("Duke") filed an Application with the Public Service Commission of South Carolina (the "Commission") seeking approval of a Settlement Agreement (the "Settlement Agreement") dated September 29, 1995, entered into by Duke and Piedmont Municipal Power Agency ("PMPA") and North Carolina Municipal Power Agency Number 1 ("NCMPA"). Duke also seeks authorization of the use of the accounting and ratemaking treatment previously approved by the Commission for Purchased Capacity costs for jurisdictional amounts incurred under the Settlement Agreement.

The Commission has reviewed Duke's Application and the Settlement Agreement attached thereto. Based on the evidence before the Commission, the Commission now makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Duke is a public utility organized and existing under the laws of the State of North Carolina. Duke is engaged in the

business of developing, generating, transmitting, distributing and selling electric power and energy to the public within the State of North and South Carolina and is subject to the jurisdiction of this Commission.

2. As of March 6, 1978, and August 1, 1980, Duke entered into separate Interconnection Agreements (the "Interconnection Agreements") with NCMPA and PMPA. The Interconnection Agreements were entered into in connection with Duke's sale of interests in its two-unit Catawba Nuclear Station ("Catawba") to PMPA and NCMPA. The Interconnection Agreements and certain related agreements were approved by Order of the Commission on September 19, 1978, with regard to NCMPA and December 13, 1981, with regard to PMPA. Based on these agreements and the sales of portions of the plant to Saluda River Electric Cooperative, Inc. ("Saluda River") and North Carolina Electric Membership Corporation ("NCEMC"), Duke retained a 12.50% interest in Catawba.

3. The Interconnection Agreements contain provisions for Duke to sell to the Power Agencies amounts of Capacity ("Supplemental Capacity") to meet the Municipals' capacity needs in excess of their Capacity entitlements from Catawba ("Retained Capacity"). The amount of Supplemental Capacity sold to the Power Agencies each year is based upon each Power Agency's combined loads net of their Southeastern Power Administration capacity allocations (the "Hourly Resource Demand") and its Retained Capacity. Annual purchases of Supplemental Capacity are equal to the maximum annual Hourly Resource Demand at the time Duke's

annual peak during the current or prior five years less the Retained Capacity in the current year.

4. The Interconnection Agreements also contain provisions for Duke to purchase amounts of capacity ("Purchased Capacity") from PMPA's and NCMPA's ownership interests in Catawba through the year 2000. These provisions were primarily required by PMPA and NCMPA to provide economic feasibility because the amount of plant purchased by them in the initial years of Catawba's operation was in excess of the baseload needs of their members.

5. In Duke's 1985 and 1986 general rate cases, SCPSC Docket Nos. 85-78-E and 86-188-E, in which the cost of the Catawba Units was reflected in rates, the Commission also approved the inclusion of Purchased Capacity costs paid to the joint owners in rates charged to Duke's South Carolina retail customers. In those Dockets, the Commission ordered that such costs be recovered in levelized amounts and that the unrecovered payments be placed in a deferred account until such costs were ultimately collected.

6. Beginning in 1992, the Power Agencies challenged certain calculations made by Duke under the Interconnection Agreements. (This dispute is referred to as the "B Factor Dispute.") Specifically, the Power Agencies maintain that Duke's calculation is inconsistent with the contract in two respects: (1) calculation of the Power Agencies' Average Monthly Supplemental Capacity should be the average of their Hourly Resource Demand less their Retained Capacity, without regard to whether the average is a negative amount; and (2) Hourly Resource Demand and Retained

Capacity quantities should be determined in the first instance for the Power Agency systems collectively.

7. Duke has entered into a Settlement Agreement with NCMPPA and PMPA with respect to the B Factor Dispute and certain other items described in Section 2 of the Settlement Agreement. In addition to establishing rules for calculation of the B Factor, the Settlement Agreement also requires Duke to purchase certain additional amounts of Purchased Capacity beginning in 1996 pursuant to the schedule set forth in Section 2.4. The terms of the Settlement Agreement require approval of the Commission before it is effective.

8. The Commission finds that the levelization of Purchased Capacity costs and resultant deferral accounting procedures previously approved should be used to capture the purchased capacity costs arising out of this Settlement.

IT IS THEREFORE ORDERED:

1. That the findings and conclusions of this Order are hereby adopted by the Commission.

2. That the Settlement Agreement entered into by Duke and PMPA and NCMPPA is hereby approved.


3. That the use of the accounting and ratemaking treatment previously approved by the Commission for Purchased Capacity for jurisdictional amounts incurred under the Settlement Agreement is approved.

4. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Deputy Executive Director
(SEAL)